

PLANNING COMMISSION MINUTES

May 21, 2003

CALL TO ORDER:

Chairman Bob Barnard called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Chairman Bob Barnard, Planning Commissioners Gary Bliss, Dan Maks, Shannon Pogue, Vlad Voytilla, and Scott Winter. Planning Commissioner Eric Johansen was excused.

Senior Planner John Osterberg, Associate Planner Scott Whyte, AICP, Associate Planner Tyler Ryerson, Senior Traffic Planner Don Gustafson, Assistant City Attorney Ted Naemura, and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Barnard, who presented the format for the meeting.

VISITORS:

Chairman Barnard asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Senior Planner John Osterberg indicated that there were no communications at this time.

OLD BUSINESS:

Chairman Barnard opened the Public Hearing and read the format for Public Hearings. There were no disqualifications of the Planning Commission members. No one in the audience challenged the right of any Commissioner to hear any of the agenda items, to participate in the hearing or requested that the hearing be postponed to a later date. He asked if there were any ex parte contact, conflict of interest or

1 disqualifications in any of the hearings on the agenda. There was no
2 response.

3
4 **CONTINUANCES:**

5
6 **A. ONODY PLANNED UNIT DEVELOPMENT**

7 **1. CU 2002-0031 – CONDITIONAL USE PERMIT**

8 **2. LD 2003-0003 -- SUBDIVISION**

9 **3. TP 2003-0003 – TREE PLAN**

10 **4. FS 2003-0001 – FLEXIBLE SETBACK**

11 (Continued from April 9, 2003)

12 The applicant proposes a revised Planned Unit Development
13 (PUD) and Subdivision Plan for 13 single-family residential
14 lots with lot sizes varying from approximately 4,590 square
15 feet to approximately 6,520 square feet. In addition, the
16 applicant proposes a large tract of land intended for the pur-
17 pose of open space and wetlands preservation. The proposed
18 PUD would allow variation to the site development
19 standards of the R-7 zone found in Section 20.05.50 of the
20 Development Code. In addition, the applicant requests Tree
21 Plan 2 approval. A portion of the subject site area contains
22 “Community Trees” which, as defined by the Development
23 Code, are healthy trees of at least ten inches in diameter
24 (DBH) located on developed, partially developed, or
25 undeveloped land. The proposed development plan would
26 remove several Community Trees for site development
27 purposes. The applicant is also requesting Flexible Setback
28 approval to reduce the standard setbacks of the R-7 as
29 described in Section 20.05.40 of the Development Code. The
30 site is generally located north of NW Pioneer Road and west
31 of NW Meadow Drive, and can be specifically identified as
32 Tax Lot 500 on Washington County Tax Assessor’s Map 1N1-
33 33CC. The subject property is zoned R-7 Urban Standard
34 Density and is approximately 2.66 acres in size. Within the
35 R-7 zone, single-family detached dwellings are permitted
36 outright and a request for Planned Unit Development is
37 subject to Conditional Use Permit (CU) approval.

38
39 Observing that he has worked with the applicant, Alpha Engineering,
40 Inc., within the past two years, Commissioner Bliss recused himself
41 from participating in this hearing and left the dais.

42
43 Commissioners Voytilla, Winter, Pogue, and Maks, and Chairman
44 Barnard all indicated that they had visited and were familiar with the

1 site and had no contact with any individual(s) with regard to this
2 proposal.

3

4 Referring to four updated Staff Reports, dated May 14, 2003, including
5 minutes of the previous public hearing held April 9, 2003, in addition
6 to the original Staff Reports, dated April 2, 2003, Associate Planner
7 Scott Whyte briefly described revisions to the application that had
8 been submitted by the applicant in response to various concerns
9 expressed by the Planning Commission and staff, particularly the eli-
10 mination of one lot to satisfy the 20% common open space requirement.
11 He discussed staff's previous recommendation for denial, including a
12 potential conflict between the City of Beaverton, Tualatin Hills Park &
13 Recreation District (THPRD), and Clean Water Services (CWS),
14 observing that the applicant has returned with a revised plan that ade-
15 quately responds to all of the issues of concern. He pointed out that
16 pages 9 through 20 of the CUP Staff Report contain revised findings in
17 response to the revised plans. Noting that a Homeowner's Association
18 (HOA) would be necessary to provide required maintenance of the open
19 space, he mentioned that all four Staff Reports include Conditions of
20 Approval. Concluding, he recommended approval of all four applica-
21 tions related to this proposal and offered to respond to questions.

22

23 Referring to the Condition of Approval No. 1 for the TPP,
24 Commissioner Maks pointed out that he had been unable to locate the
25 document referenced as recommended tree protection measures
26 contained in the report prepared by the consulting arborist Walter H.
27 Knapp, dated April 30, 2003, which are to be adopted as Conditions of
28 Approval.

29

30 Mr. Whyte advised Commissioner Maks that he is looking for the
31 document, adding that it had been included in the submittal.

32

33 Observing that many of his concerns had been addressed appropriately
34 by the applicant, Commissioner Maks referred to page 22 of the CUP
35 Staff Report page 22, specifically the 20% open space requirement in
36 the area of Lot Nos. 1 and 14, adding that he is not pleased that Lot
37 No. 14 had been selected as opposed to Lot No. 1. He discussed the
38 protection of wetland and significant areas, and referred to Goal No.
39 7.3.1.1.f, which states, as follows: *"Specific uses of or development*
40 *activities in Significant Natural Resources areas shall be evaluated*
41 *carefully and those uses or activities that are complementary and*
42 *compatible with resource protection shall be permitted. This is not*
43 *intended to prohibit a land use permitted by the underlying zoning*

1 *district but only to regulate the design of development such as building*
2 *or parking location or type of landscaping.”*
3

4 Mr. Whyte informed Commissioner Maks that the applicant could
5 respond to this issue.
6

7 **APPLICANT:**
8

9 **MATTHEW SPRAGUE**, representing *Alpha Engineering, Inc.*, briefly
10 discussed confusion with regard to binders and materials that had not
11 been submitted ahead of time. He mentioned a letter he had
12 submitted to Mr. Whyte, dated April 29, 2003, observing that this
13 document had addressed the major issues that had been brought up at
14 the original public hearing, including access location for the THPRD
15 maintenance drive; Tract B ownership, mitigation, access and
16 maintenance; CWS updated Service Provider Letter; and identification
17 of additional trees that could be preserved on the site.
18

19 Referring to Condition of Approval No. 6.a for the PUD/CUP, Mr.
20 Sprague pointed out that the last line should be amended, as follows:
21 “...Lots 3 and 4 shall be ~~20~~ **30** feet.” He described the applicant’s
22 efforts to preserve additional trees on the site as well as attempts to
23 make certain that the development would not impact trees located on
24 adjacent property. He discussed issues with regard to the open space
25 and buffer, adding that the applicant had revised the project, providing
26 for the removal of Lot 14, resulting in the creation of Tract D which
27 provides slightly greater than 20% that can be counted as open space.
28 He pointed out that based upon the gross acreage, this actually
29 provides what he considers to be 30% open space for the entire site.
30

31 Mr. Sprague pointed out that the 100-year floodplain has been
32 addressed by City Engineer Jim Duggan, adding that documentation
33 has been received and is on file, including Conditions of Approval
34 specific to that floodplain.
35

36 Referring to the draft Covenants, Conditions and Restrictions, Mr.
37 Sprague mentioned that some of the proposed architectural features
38 would help to push the design of the homes toward that neo-traditional
39 design, and expressed his opinion that the end result would be
40 appropriate.
41

42 Commissioner Maks reminded Mr. Sprague that he had raised the
43 issue with regard to why Lot 14 had been selected over Lot 1.
44

1 Observing that Lot 14 is less valuable than Lot 1, Mr. Sprague pointed
2 out that it also provides a more central location, as well as an entry
3 area for the project itself. He pointed out that landscaping would be
4 provided on the lot, adding that the applicant had attempted to provide
5 some private open space for the individuals.

6
7 Commissioner Maks requested clarification with regard to providing
8 an active open space area right on the main street and adjacent to the
9 street entering the project, observing that he is concerned with the
10 safety of small children in this area. He questioned the rationale for
11 determining that Lot No. 14 is less valuable than Lot No. 1.

12
13 Mr. Sprague pointed out that Lot No. 1 has greater value because it
14 backs up to the park and is more attractive to the end user than a lot
15 that has streets on three sides. On question, he advised Commissioner
16 Maks that the side yard setback adjacent to the wetland area for Lot
17 No. 1 is five-feet.

18
19 Commissioner Maks expressed his appreciation to the applicant for
20 addressing issues from the previous Public Hearing, adding that he
21 still has concerns with regard to Lots 1 and 14.

22
23 Mr. Sprague discussed staff's concern with the location of the open
24 space, pointing out that it is possible to relocate this open space.

25
26 Chairman Barnard questioned the feasibility of adjusting the lot lines
27 so that Lot Nos. 2 and 3 would be slightly larger.

28
29 Mr. Sprague advised Chairman Barnard that adjustments to the lot
30 lines are feasible,

31
32 Commissioner Voytilla stated that he agrees with Commissioner Maks,
33 specifically with regard to the purpose of Tract D, and questioned the
34 extent of the applicant's experience with the operation and
35 maintenance of a Homeowner's Association.

36
37 **AL JECK**, Director of Land Investments for *Alpha Engineering, Inc.*,
38 stated that as a developer, he has had no experience with the operation
39 and maintenance of a Homeowner's Association.

40
41 Observing that he has created and is very familiar with Homeowner's
42 Associations, Commissioner Voytilla referred to the maintenance of
43 Tract D, noting that he is specifically concerned with attempting to
44 minimize the burden on future owners.

1 Mr. Sprague discussed the trees that would be preserved within that
2 area, observing that this mainly involves an eight-inch Oregon Ash.
3 Commissioner Voytilla expressed his appreciation to the applicant for
4 providing the revised materials.

5
6 Commissioner Pogue expressed his appreciation of the efforts of the
7 applicant and requested clarification with regard to the location of the
8 sidewalks and who is responsible for paying for these sidewalks.

9
10 Mr. Sprague explained that the sidewalks would be located along all
11 tract boundaries, adding that they would be installed during the
12 construction of the subdivision itself, emphasizing that the builder
13 must provide the sidewalks in order to obtain the occupancy permit.

14
15 **PUBLIC TESTIMONY:**

16
17 No member of the public testified with regard to this proposal.

18
19 Mr. Whyte noted recommendations for the relocation of open space,
20 observing that because a HOA is only necessary for the creation of
21 Tract D, Conditions of Approval Nos. 3 and 4 of the CUP would no
22 longer be necessary if the Commission decides to exchange Tract D for
23 Lot 1. He mentioned an additional revision to the Facilities Review
24 within the CUP Staff Report, Exhibit 2.2, page 13 of 15, specifically
25 Facilities Review Condition of Approval No. 6 prepared for LD
26 2003-0003, as follows: "conveyance of Tracts B and D to the Tualatin
27 Hills Parks and Recreation District." Referring to the Flexible
28 Setback, he requested that Condition of Approval No. 2.a, be amended,
29 as follows: "a. Front Yard of Parent Parcel: 15 feet for Lot Nos. 11,
30 ~~and 13, and 14~~;" 10 ft. for Lot 10." He clarified that it might be
31 necessary to renumber the Conditions of Approval in order to
32 accommodate revisions.

33
34 Chairman Barnard requested that staff address some of the confusion
35 with regard to Commissioner Voytilla's questions between the various
36 applications, and questioned whether it is necessary to specify with
37 regard to the minimum square footage on Lot No. 1 relating to lot sizes
38 and the 20% issue.

39
40 Acknowledging that Condition of Approval No. 3 for the CUP might be
41 eliminated, Commissioner Maks mentioned a Scribner error on lines 3
42 and 4 that should be corrected, as follows: "...specify maintenance
43 responsibilities for the landscape ~~and~~ areas and play apparatus to be
44 provided inside Tract D..."

1 The public portion of the Public Hearing was closed.

2
3 Observing that he is pleased with the revised applications,
4 Commissioner Winter expressed his support of the proposal with Tract
5 D moved to Lot 1.

6
7 Commissioner Pogue stated that he supports the applications, adding
8 that they meet applicable criteria, and moving Tract D to Lot 1.

9
10 Commissioner Maks pointed out that he would prefer to move the open
11 space, adding that he appreciates the efforts of the applicant and
12 supports the proposal.

13
14 Commissioner Voytilla stated that he is pleased with the applicant's
15 revisions, noting that he is in support of all four applications and also
16 wants Tract D moved to Lot 1.

17
18 Chairman Barnard expressed his approval of the revised application.

19
20 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
21 a motion to **APPROVE** CU 2002-0031 – Onody Planned Unit
22 Development Conditional Use, based upon the testimony, reports and
23 exhibits, and new evidence presented during the Public Hearings on
24 the matter, and upon the background facts, findings and conclusions
25 found in the Staff Reports dated May 14, 2003, and April 2, 2003, as
26 amended, and including Conditions of Approval Nos. 1 through 7, with
27 the following amendments:

28
29 ~~3. Covenants, Conditions and Restrictions recorded with the~~
30 ~~subdivision final plat and Planned Unit Development~~
31 ~~approval shall specify maintenance responsibilities for the~~
32 ~~natural landscape areas and play apparatus to be~~
33 ~~provided inside Tract D. Language of the Covenants,~~
34 ~~Conditions and Restrictions shall be subject to review and~~
35 ~~approval by the City Attorney prior to recording and shall~~
36 ~~include at minimum the following provisions:~~

37
38 ~~a. A provision that provides for City intervention and~~
39 ~~the imposition of a lien against the owners of lots~~
40 ~~within the Planned Unit Development in the event~~
41 ~~the association fails to perform regular landscape~~
42 ~~maintenance of Tract D to landscape plan (Exhibit~~
43 ~~B).~~
44

1 4. ~~Prior to Final Subdivision Plat approval the developer~~
2 ~~shall provide the necessary documents for the formation~~
3 ~~of a Homeowners Association that shall be the~~
4 ~~homeowners' primary recourse for assisting with the~~
5 ~~maintenance responsibility of Tract D. The formation of~~
6 ~~the Homeowners' Association shall be described in the~~
7 ~~Covenants, Conditions and Restrictions (CC&R's) to be~~
8 ~~recorded with the final plat. The Covenants, Conditions~~
9 ~~and Restrictions shall be reviewed and approved by the~~
10 ~~City Attorney and Planning Director prior to Final~~
11 ~~Subdivision Plat approval.~~

12
13 renumbering the Conditions of Approval, as necessary, and including
14 an additional Condition of Approval, as follows:

15
16 6. Open space Tract D shall be placed in area designated as
17 Lot 1 on materials submitted as of this date and shall
18 meet 20% open space requirement.

19
20 and revising pages 13 of the Facilities Review Conditions of Approval
21 with regard to conveyance of Tracts B and D to the Tualatin Hills
22 Parks and Recreation District

23
24 Motion **CARRIED** by the following vote:

25
26 **AYES:** Maks, Winter, Pogue, Voytilla, and Barnard.
27 **NAYS:** None.
28 **ABSTAIN:** Bliss.
29 **ABSENT:** Johansen.

30
31 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
32 a motion to **APPROVE** LD 2003-0003 – Onody Subdivision, based upon
33 the testimony, reports and exhibits, and new evidence presented
34 during the Public Hearings on the matter, and upon the background
35 facts, findings and conclusions found in the Staff Reports dated May
36 14, 2003, and April 2, 2003, as amended, and including Conditions of
37 Approval Nos. 1 through 48.

38
39 Motion **CARRIED** by the following vote:

40
41 **AYES:** Maks, Winter, Pogue, Voytilla, and Barnard.
42 **NAYS:** None.
43 **ABSTAIN:** Bliss.
44 **ABSENT:** Johansen.

1 Commissioner Maks **MOVED** to **APPROVE** TP 2003-0003 – Onody
2 Planned Unit Development Tree Plan 2, based upon the testimony,
3 reports and exhibits, and new evidence presented during the Public
4 Hearings on the matter, and upon the background facts, findings and
5 conclusions found in the Staff Reports dated May 14, 2003, and April 2,
6 2003, as amended, and including Conditions of Approval Nos. 1
7 through 5.

8
9 Commissioner Voytilla suggested that the motion include a Condition
10 of Approval providing that the applicant attempt to adjust the lot lines
11 to preserve more trees as a result of the conversion of Tract D to Tract
12 1.

13 Commissioner Maks accepted the friendly amendment to his motion.

14
15 Commissioner Winter **SECONDED** the motion.

16
17 Motion **CARRIED** by the following vote:

18
19 **AYES:** Maks, Winter, Pogue, Voytilla, and Barnard.
20 **NAYS:** None.
21 **ABSTAIN:** Bliss.
22 **ABSENT:** Johansen.
23

24 Commissioner Maks **MOVED** to **APPROVE** FS 2003-0001 – Onody
25 Planned Unit Development Flexible Setbacks, based upon the
26 testimony, reports and exhibits, and new evidence presented during
27 the Public Hearings on the matter, and upon the background facts,
28 findings and conclusions found in the Staff Reports dated May 14,
29 2003, and April 2, 2003, as amended, and including Conditions of
30 Approval Nos. 1 through 3, amended as follows:

31
32 2.a. Front Yard of Parent Parcel: 15 feet for Lot Nos. 11, and
33 13, and 14; 10 ft. for Lot 10.
34

35 Motion **CARRIED** by the following vote:

36
37 **AYES:** Maks, Winter, Pogue, Voytilla, and Barnard.
38 **NAYS:** None.
39 **ABSTAIN:** Bliss.
40 **ABSENT:** Johansen.
41

42 Chairman Barnard reminded Mr. Jeck to complete and submit a
43 yellow testimony card before leaving.
44

45 8:02 p.m. – Mr. Whyte left.

1 8:03 p.m. to 8:06 p.m. – recess.

2
3 8:06 p.m. – Commissioner Bliss returned to the dais.

4
5 **B. CENTER STREET RESIDENTIAL PLANNED UNIT**
6 **DEVELOPMENT**

7 **1. CU 2003-0002 – CONDITIONAL USE PERMIT**

8 **2. LD 2003-0002 -- SUBDIVISION**

9 **3. TP 2003-0005 – TREE PLAN**

10 **4. SDM 2003-0001 – STREET DESIGN MODIFICATIONS**

11 (Continued from April 23, 2003)

12 The applicant requests approval of a 46-unit single-family
13 residential subdivision which includes four separate
14 applications: a Final Planned Unit Development application;
15 a Preliminary Subdivision application; a Tree Plan Two
16 application; and a Street Design Modification appli-cation.
17 The Final Planned Unit Development involves a Type 3
18 proce-dure, which proposes 46 lots, common open space, and
19 improvements to the existing Center Street Park pathway
20 from SW Center Street to the park. The Preliminary
21 Subdivision is a Type 2 application and is proposed as the
22 project creates more than four fee ownership lots. The Tree
23 Plan Two is a Type 2 application and is proposed as the
24 develop-ment proposes the removal of five or more
25 Community Trees. The Street Design Modification is
26 required as the proposal modifies the development's internal
27 street designs beyond the street design stand-ards of
28 Development Code Section 60.55.30. Vehicular access to the
29 development is proposed from extensions of SW Denfield
30 Street and SW 116th Avenue, both of which are located east
31 of the subject site.

32
33 Commissioners Voytilla, Winter, Bliss, Pogue, and Maks, and
34 Chairman Barnard all indicated that they had visited and were
35 familiar with the site and had no contact with any individual(s) with
36 regard to this proposal.

37
38 Commissioner Voytilla clarified that the Agenda cites an incorrect
39 application number, observing that SDM 2003-0002 should be SDM
40 2003-0001, which is correctly cited within the Staff Report.

41
42 Associate Planner Tyler Ryerson presented the Staff Reports and
43 briefly described the different elements and features of the proposal
44 involving four separate applications. He mentioned that the applicant

1 has submitted three separate grading plans and discussed a
2 Memorandum dated May 21, 2003, observing that the Memorandum
3 contains additional materials, including a letter from Tualatin Hills
4 Park and Recreation District, dated May 21, 2003, the Applicant's
5 Revised Grading Plan, a letter from a neighbor, John E. Ryan, dated
6 May 21, 2003, and a City Engineer Modification Request Approval
7 Letter dated May 12, 2003, adding that copies had been provided to
8 members of the Planning Commission. He pointed out that an
9 additional letter, dated May 21, 2003, was submitted by MGH
10 Associates, responding to the May 14, 2003 letter from John E. Ryan
11 that had been included with the Memorandum of May 21, 2003. He
12 mentioned several corrections to the CU Staff Report, as follows: 1)
13 last two lines of page 8: "Hall Creek is ~~considered an Other~~ **identified**
14 **as a** Significant Natural Resource. **The City's Local Wetland**
15 **Inventory identifies it** as CE-1 'wetland' ~~in the City's adopted Local~~
16 ~~Wetland Inventory Map.~~"; 2) page 19, under Medium Density
17 Residential Development should reference Goal 3.13.4, rather than
18 Goal 3.13.3; and 3) page 25, under 6.2.1 Policies, the first policy should
19 be referenced as 'a'. Concluding, he explained that the applicant has
20 made a great effort to work with both staff and the neighborhood,
21 adding that staff recommends approval of all four applications, and
22 offered to respond to questions.

23
24 Commissioner Maks mentioned potential issues pertaining to the
25 hydrology of the wetland area.

26
27 Mr. Ryerson pointed out that although staff originally had some
28 concerns with regard to these issues, the original application had
29 provided for removal of the existing culvert, as well as additional
30 grading and other measures to make certain that there would be no
31 negative impact. He pointed out that the applicant has indicated that
32 additional work would be necessary on the abutting property to the
33 east, noting that this includes a proposed retaining wall in the area of
34 the culvert. He explained that approval would be required in order to
35 complete any of the additional property to the east of the site, adding
36 that the applicant has been working with the owners of that property
37 in order to accomplish this.

38
39 Observing that staff is recommending some vegetation in front of one
40 of the retaining walls, Commissioner Maks questioned whether the
41 proposed vegetation is a native species.

42
43 Referring to Conditional Use Condition of Approval No. 8, Mr. Ryerson
44 clarified that a condition is being recommended that the developer

1 shall plant a row of Pacific Wax Myrtle in front of the proposed
2 retaining wall along the southerly property lines of Lots 2 – 6. The
3 plants shall be in two-gallon containers and spaced at approximately
4 eight-feet on center. He noted that staff had imposed this Condition of
5 Approval in an effort to address their concern with the potential
6 impact of the proposed retaining walls facing SW Center Street and
7 SW 117th Avenue.

8
9 Noting that this vegetation is to be irrigated for three years,
10 Commissioner Maks requested clarification with regard to who is
11 responsible for paying for the water.

12
13 Mr. Ryerson advised Commissioner Maks that the irrigation would be
14 the responsibility of the development, either through the Homeowner's
15 Association or THPRD.

16
17 Commissioner Maks expressed concern with making certain who is
18 responsible for maintaining the operations of the equipment that
19 provides this irrigation.

20
21 Mr. Ryerson explained that it appears that THPRD is assuming this
22 responsibility.

23
24 Commissioner Maks requested clarification with regard to the
25 sidewalk issues.

26
27 Mr. Ryerson noted that while concerns with regard to the sidewalk
28 have not yet been resolved, the applicant would most likely be
29 addressing these issues during their presentation.

30
31 Commissioner Maks questioned whether the applicant had actually
32 contacted the NAC to get on the agenda for a NAC meeting,
33 emphasizing that the applicant is only supposed to schedule their own
34 meeting when they are unable to get on the agenda at a regular
35 meeting.

36
37 Mr. Ryerson explained that he had made certain that the appropriate
38 connection was made, adding that staff is definitely getting the
39 message with regard to this issue.

40
41 Commissioner Maks pointed out that while this particular applicant
42 has a reputation for working with everyone involved, including both
43 staff and the neighbors, in order to provide quality development, it has

1 come to his attention that some of the Conditions of Approval seem
2 onerous.

3
4 Observing that he agrees that some of the Conditions of Approval are
5 onerous, Mr. Ryerson explained that because each neighbor involved
6 has different opinions with regard to fences, staff has never been able
7 to create a specific condition of approval that adequately addresses all
8 situations relating to fences.

9
10 **APPLICANT:**

11
12 **FRED GAST**, representing the applicant, *Polygon Northwest*,
13 expressed his appreciation to those involved in preparation of this
14 proposal, including City staff and especially the neighbors for their
15 participation and input that resulted in a better application. He
16 described the challenges and opportunities encountered in the creation
17 of such a proposal, including the different constraints and opposing
18 interests, zoning, density, sensitivity with regard to neighborhood
19 considerations, public open space, and roads versus resources.

20
21 **MIKE MILLER**, representing *MGH Associates*, on behalf of the
22 applicant, described the challenges involved in the balancing of what
23 he referred to as three key issues, as follows: 1) influences of the site;
24 2) neighborhood concerns; and 3) jurisdictional rules. Observing that
25 each project has its own personality, he point-ed out this project was
26 challenging because it includes a cross slope in two different directions.
27 He briefly described the features, location, parking, wetlands, open
28 space (which meets the 20% criteria excluding the buffers), floodplain,
29 screening, density, and additional storage area, observing that the
30 applicant had worked extensively with the neighbors. He discussed
31 the 27,000 square feet, observing that the applicant intends to remove
32 the invasive plants, to be replaced with natural plantings. He
33 described the proposed overlook plaza and pathway linkage, adding
34 that the applicant intends to remove the driveway connection and
35 replace it with a multi-use pedestrian and bicycle path. He explained
36 that the applicant has been working with Mike Schaeffer, the owner of
37 *Brookshire Meadows Apartments*, under a separate application, in an
38 attempt to remove the culvert and improve the flow and increase the
39 capacity for flood storage by an additional 40%. He expressed his
40 opinion that the project responds appropriately to the site constraints,
41 neighborhood issues, and the jurisdictional criteria, while creating a
42 position between urban and urban neighborhood and a reclaimed
43 natural open space and park, and gives back to both the project and
44 the overall community, creating new park and improved access to an

1 existing park, adding that Center Street Park would be truly accessible
2 from Center Street for the first time. Concluding, he noted that the
3 applicant team is available to respond to questions, adding that the
4 Traffic Planner is also in attendance.

5
6 Observing that he has engineering issues with regard to hydrology,
7 Commissioner Maks noted that he is specifically concerned that the
8 release process back into the wetlands would not drastically change
9 the hydrology in that area.

10
11 **FRED GARMIRE**, Civil Engineer representing *MGH Associates* on
12 behalf of the applicant, responded that the applicant had worked
13 closely with staff with regard to the drainage issues adjacent to site,
14 adding that they are completing a study of the north fork of Hall Creek
15 within that Corridor. He explained that the applicant would be
16 responsible for payment of an in lieu fee, rather than addressing the
17 additional runoff, noting that this payment would be applied to
18 improvements upstream within the drainage basin that would benefit
19 the entire system more appropriately than the applicant would be able
20 to achieve at the site.

21
22 Expressing his opinion that the applicant had done a great job with
23 this application, Commissioner Maks questioned whether they ever
24 purchase a flat piece of land with no wetlands or trees for a project. He
25 requested clarification with regard to the applicant's difference of
26 opinion with staff with regard to the sidewalk issue.

27
28 Mr. Gast pointed out that while the applicant understands and does
29 not necessarily disagree with staff's position with regard to the
30 sidewalk issue, the proposed improvements would be mitigated with
31 surfaces that are not impervious, emphasizing that a sidewalk is
32 impervious. He pointed out that it is necessary to satisfy the
33 requirements of a third party, and advised Commissioner Maks that he
34 should have a copy of an e-mail from Heidi Berg of Clean Water
35 Services (CWS) that they would encourage not locating the sidewalk
36 within the buffer area.

37
38 Commissioner Maks noted that the dedication to THPRD includes a
39 commercial area. He referred to the parking situation, and questioned
40 the feasibility of a garbage truck negotiating on both the street and in
41 the alleyway.

42
43 Mr. Gast explained that there are always concerns with regard to
44 garbage trucks, school buses, fire trucks, and moving vans, adding that

1 the rule of thumb provides that if the fire truck can get through, so can
2 the others. He pointed out that while it is not always simple, the
3 applicant has designed enough of these developments that they are
4 able to resolve this issue. He mentioned that one of the positive
5 aspects with regard to this development is that the garbage cans would
6 be in the alleyway, rather than out on the street, emphasizing that this
7 creates an improvement to the street scene. In response to
8 Commissioner Maks' question with regard to the responsibility for
9 providing water to the vegetation in the enhancement area, he noted
10 that the applicant is required to provide a three-year plan to ensure
11 the survival of these plants within the buffer areas.

12
13 Commissioner Bliss requested clarification with regard to parking in
14 the driveway, specifically whether this is a reference to the garage
15 driveway or the rear alley driveway.

16
17 Mr. Miller advised Commissioner Bliss that the parking within the
18 driveway would be the garage driveway, adding that parking would
19 not be permitted in the very short driveways of the 26 homes located in
20 the alley, which are less than five-feet in length, and mentioned that
21 the other driveways are 18-½ feet or greater in length.

22
23 Mr. Gast explained that the CC&R's do not allow parking within these
24 five-foot driveways, adding that there is also a maintenance agreement
25 with regard to these areas.

26
27 Commissioner Bliss pointed out that there is a five-foot distance
28 between Tract D and the face of the garage, and questioned whether
29 anything would prohibit a homeowner from installing planters within
30 that area. He mentioned that 20 feet is not adequate to back a car out,
31 emphasizing that 24 feet is even difficult.

32
33 Mr. Gast explained that the applicant has worked successfully with
34 alley homes in Hillsboro, adding that they currently have about 30 of
35 these very attractive homes occupied.

36
37 On question, Mr. Miller advised Commissioner Pogue that the
38 aggregate parking is approximately 3.9 spaces per unit, for a total of
39 178 parking spaces.

40
41 Commissioner Pogue expressed concern with lighting requirements,
42 specifically with regard to security issues.

43

1 Mr. Gast discussed the existing pathway, observing that the applicant
2 has built many pathways, noting that such a feature should be lighted
3 and open for surveillance. He explained that this always involves a
4 trade-off of illumination, with regard to the protection of wildlife
5 versus safety.

6
7 **PUBLIC TESTIMONY:**

8
9 **BRIAN COLCLASIER** explained that while he basically supports
10 this development, he has several key issues of concern. He pointed out
11 that he had organized a group of neighbors to basically understand
12 potential consequences of this development, adding that the major
13 issue had been with through vehicular traffic from Center Street to
14 Walker Road, and expressed his opinion that the development proposal
15 adequately addresses this issue. He pointed out that there is adequate
16 pedestrian and bicycle connectivity, without the vehicular activity,
17 which the neighbors had determined would become a cut-through
18 issue. Observing that he appreciates the fact that the developers made
19 every effort to meet with the neighbors and address their concerns, he
20 noted that their proposal would provide protection to the wetlands,
21 which would actually enhance the wetland through the mitigation of
22 invasive species. Concluding, he observed that while they are still
23 concerned with the potential need for traffic calming devices within the
24 established Lynnwood Neighborhood, as well as the drainage issue, the
25 neighbors basically support this proposal.

26
27 **JOHN RYAN** mentioned that while he is an adjacent neighbor in
28 support of this proposal and has concerns with drainage, lighting and
29 drainage issues, he is appreciative of the manner in which the
30 applicant has addressed these issues and this proposal, adding that
31 most of these concerns have been successfully addressed in writing.

32
33 Commissioner Maks clarified that lighting involves two separate
34 issues, specifically neighbors and wildlife.

35
36 **PAUL SLOTEMAKER** stated that he is a newer resident of the
37 Lynnwood Neighborhood, adding that he is happy with the proposal
38 and access to both the freeways and the Max. He discussed the
39 proposed wetlands mitigation, including the access to the wetlands
40 through the pedestrian bridge, adding that he approves of the lighting
41 as well as the alleyway between the homes, expressing his opinion that
42 this provides an appealing streetscape.
43

1 **PAMELA MEREDITH** expressed concern with the fence issue,
2 adding that she has heard three different potential scenarios. She
3 emphasized that she is not in favor of an additional fence parallel to
4 her existing fence, pointing out that this would be impossible to
5 maintain either fence, adding that she is also concerned with drainage
6 issues.

7
8 Chairman Barnard questioned whether Ms. Meredith has any
9 preference with regard to fencing.

10
11 Advising Chairman Barnard that she would not be in favor of a good
12 neighbor fence, Ms. Meredith stated that she has her own board on
13 board fence with rails, adding that the fence is capped with a board
14 across the top.

15
16 Chairman Barnard questioned whether Ms. Meredith would be
17 comfortable with a straight run fence with six inches on the applicant's
18 property line would be satisfactory, and suggested that while her own
19 fence would be removed, the new fence would be identical to her
20 existing fence.

21
22 Reiterating that she would not approve of a good neighbor fence, Ms.
23 Meredith advised Chairman Barnard that a fence identical to her
24 existing fence would be satisfactory.

25 **APPLICANT REBUTTAL:**

26
27 Mr. Gast addressed the issues mentioned by the public, as follows:

- 28
29 1. Traffic calming devices. The applicant has no problem working
30 with the neighbors through the proper jurisdiction, emphasizing
31 that the City of Beaverton boundary stops at some point and
32 that there would be some areas that could not be addressed. He
33 pointed out that stop signs could only be installed if a situation
34 meets certain warrants, adding that the applicant does not have
35 the authority to provide the stop signs because this situation
36 does not meet those warrants.
- 37 2. Lighting along the path. There are nine lights along the path
38 from Center Street, into the neighborhood, approximately 60
39 feet apart. He pointed out that lighting is a different issue for
40 the applicant, because generally people complain about too
41 much light that bleeds over onto adjacent property. He
42 explained that the street lights provided by the applicant are
43 basically as far out to the property line as possible, adding that

1 there is a certain point where the light would become a code
2 violation by spilling out onto the adjacent property.

- 3 3. Adjacency and fencing issues. The applicant has no issue with
4 installing a fence that would meet Ms. Meredith's standards,
5 adding that he would only be the owner of the property for a
6 short period of time and that the fencing could potentially
7 change in the future, and emphasized that he has no way to
8 control changes that might be made by a future owner.

9
10 Observing that customer service is a tremendous issue, Commissioner
11 Pogue advised Mr. Gast that he is completely wowed by the excellent
12 customer service displayed by the applicant.

13
14 Mr. Gast expressed his appreciation of Commissioner Pogue's
15 sentiments.

16
17 Commissioner Maks requested clarification of Condition of Approval
18 No. 10 of the Conditional Use, regarding the fencing.

19
20 Mr. Gast expressed his opinion that the general gist of this condition of
21 approval is that the applicant meet with the neighbors and determine
22 their preference with regard to the fencing. He explained that the
23 applicant has done this, adding that basically everyone wants a fence
24 and that the applicant intends to construct a fence similar to the fence
25 requested by Ms. Meredith.

26
27 Commissioner Maks concurred with Mr. Gast's statement indicating
28 that he would own the property for only a short period of time.

29
30 Commissioner Voytilla expressed his agreement with Commissioner
31 Maks' statement that some of the Conditions of Approval have become
32 rather onerous. Observing that there has been a great deal of concern
33 with regard to the fencing issue, he suggested the possibility of
34 providing for future fence replacement within the CC&R's.

35
36 Commissioner Maks requested clarification with regard to which
37 section within the applications or Facilities Review stipulates that the
38 applicant must do what staff intends with the sidewalks, rather than
39 what the applicant proposes.

40
41 Mr. Ryerson advised Commissioner Maks that the Street Design
42 Modification addresses the applicant's request for modification, adding
43 that the Facilities Review Land Division provides the Condition of

1 Approval for the sidewalk to be located at the appropriate location
2 within the right-of-way.

3
4 Mr. Ryerson referred to Exhibit 2.2 of the Conditional Use, observing
5 that this exhibits pertains to a balance with regard to the buffer zone
6 versus security and safety issues. He discussed an e-mail from Heidi
7 Berg of CWS to Don Gustafson regarding the Street Design Modifi-
8 cation. Observing that the area in which traffic calming was requested
9 involves Washington County, rather than the City of Beaverton and he
10 has contact information at Washington County if anyone would like it.
11 Referring to the fencing issue, he noted that the applicant worked well
12 to address the concerns of neighbors, adding that it had been necessary
13 to create a condition of approval that would allow the flexibility in
14 satisfying the different needs of the individuals involved. Noting that
15 there would be a maintenance issue between two adjacent fences, he
16 emphasized that the applicant has had to struggle to find a solution to
17 satisfy people wanting different types of fences.

18
19 Mr. Osterberg clarified that although the floodway fringe is the area of
20 the floodplain that is outside of the floodway, literally floodway and
21 floodplain are the same thing. Agreeing that Condition of Approval
22 No. 10 might be construed as onerous, he emphasized that it is the
23 discretion of the Planning Commission to make such a determination
24 and act accordingly. He explained that the Planning Director had
25 indicated that in the event that an applicant proposes a particular
26 improvement that is not indicated on an illustration or exhibit, staff
27 should recommend an appropriate Condition of Approval to clarify
28 this, adding that there is a possibility that it could be later be
29 construed that the applicant simply made a suggestion and was free to
30 withdraw the suggestion.

31
32 Senior Transportation Planner Don Gustafson addressed the sidewalk
33 issue, observing that at this time, Center Street is a two-lane collector
34 street with bicycle lanes, adding that it is proposed to be a three-lane
35 street. He pointed out that staff had not required the developer to pro-
36 vide that half-street widening on his side, noting that while staff had
37 not determined that there was the rough proportionality to require this
38 improvement, they had felt that it was reasonable to request the side-
39 walk. Observing that any future widening would most likely involve a
40 City project, he explained that the City would be required to mitigate
41 that wetlands intrusion at that time. He noted that staff is recom-
42 mending that this improvement be done at this time and requested
43 input from the Planning Commission with regard to this issue.

44

1 Commissioner Maks requested clarification with regard to when the
2 Center Street Improvement would occur.

3
4 Mr. Gustafson advised Commissioner Maks that although the Center
5 Street Improvement is listed on the improvement map at this time, it
6 has not yet been funded or scheduled.

7
8 Commissioner Maks mentioned that CWS is somewhat in opposition to
9 Policy No. 7.3.2.1 and Policy No. 7.3.3.1 with regard to protection,
10 enhancement, and/or mitigation on impacts on wetlands and/or natural
11 areas.

12
13 Mr. Ryerson informed Commissioner Maks that it might also be
14 necessary to address a potential conflict with a criterion with regard to
15 creating a burden of City expenses.

16
17 Commissioner Maks questioned whether the applicant's submittal
18 documents or memorandums mention working with the neighbors to
19 provide a fence.

20
21 Mr. Ryerson observed that although the applicant has indicated that
22 they intend to work with the neighbors to provide a fence, this is not
23 actually shown on any plans.

24
25 Commissioner Maks expressed his opinion that a Condition of
26 Approval is appropriate if this fence is not documented on any plans or
27 correspondence.

28
29 Mr. Osterberg reminded the Planning Commission addressing the spe-
30 cific condition requiring the Center Street sidewalk involves Facilities
31 Review Condition of Approval D.2 of the Land Division Staff Report.

32
33 Assistant City Attorney Ted Naemura commented with regard to the
34 Condition of Approval concerning approval contingent upon the
35 approval of related applications, observing that the second sentence of
36 Condition of Approval No. 3 of the Conditional Use application and
37 Condition of Approval No. 2 of the Land Division, Tree Plan, and
38 Street Design Modification is surplus and should be eliminated, as
39 follows: ~~"The Preliminary Subdivision approval shall become null and~~
40 ~~void if the associated requests for the PUD, Tree Plan and Street~~
41 ~~Design Modification are not ultimately approved by the City."~~

42
43 The public testimony section of the Public Hearing was closed.
44

1 Commissioner Bliss commended the applicant for submitting an
2 excellent application, adding that the proposal meets applicable
3 criteria and that he would support a motion for approval.

4 Chairman Barnard requested a consensus with regard to the sidewalk
5 issue.

6

7 Commissioner Bliss stated that the existing sidewalk on Center Street
8 is curb tight to the west, adding that if Center Street could be widened
9 without impacting the wetland at some future point, he is willing to
10 concur with his fellow Commissioners with regard to the sidewalk
11 issue.

12

13 Commissioner Voytilla noted that he has no questions with regard to
14 this proposal, adding that the applicant had done a good job and
15 addressed relevant issues. Observing that he would support a motion
16 for approval, he added that he would also concur with his fellow
17 Commissioners with regard to the sidewalk.

18

19 Commissioner Pogue stated that he supports all four applications,
20 adding that they meet applicable criteria. Noting that the lighting is
21 well done, he explained that he would like to hear any remaining
22 options with regard to the sidewalk issue.

23

24 Observing that he is impressed with this proposal, Commissioner
25 Winter pointed out that the issues were easily resolved and that the
26 applications meet applicable criteria. Noting that he is totally
27 ambivalent with regard to the sidewalk issue, he pointed out that it
28 appears that the situation involves what he referred to as competing
29 agencies. He explained that while he understands Commissioner
30 Maks' question with regard to when Center Street is going to be
31 widened, this is certainly not the highest priority in the City.
32 Expressing his opinion that the applicant has done a tremendous job of
33 mitigation with regard to the green space, he stated that he would be
34 willing to accept the current proposal and applications and overturn
35 staff with regard to the sidewalk issue.

36

37 Observing that the City of Beaverton is attempting to develop within
38 the Urban Growth Boundary (UGB), Commissioner Maks requested
39 that Mr. Gast purchase every undesirable piece of property in the City
40 of Beaverton and develop it as well as he has in the past. He expressed
41 his opinion that the proposal meets applicable criteria, adding that he
42 would be willing to concur with his fellow Commissioners with regard
43 to the sidewalk issue and would like to leave the issue regarding the
44 fence as it stands. He pointed out that any future property owners

1 would have the option to change the fence once they purchase the
2 property.

3

4 Chairman Barnard concurred with his fellow Commissioners, adding
5 that he would support a motion for approval, and requested that Ms.
6 Meredith seriously consider what type of fence she wants. Referring to
7 the sidewalk issue, he expressed his opinion that the Commission
8 should support staff's recommendation, pointing out that the wetlands
9 have already been over-mitigated.

10

11 Commissioner Maks advised Commissioner Barnard that mitigation is
12 necessary any time the wetlands are involved.

13

14 Commissioner Voytilla expressed his opinion that the sidewalk
15 involves what he considers to be a very minor element to the overall
16 development proposal, adding that he agrees with Commissioner
17 Winter that there appears to be a discrepancy between the agencies.
18 He stated that this issue should be left as it is, according to staff's
19 recommendation.

20

21 Commissioner Pogue stated that he concurs with the applicant's
22 recommendation with regard to the sidewalk.

23

24 Commissioner Bliss and Commissioner Winter both stated that they
25 still feel that the sidewalk should be tight.

26

27 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
28 a motion to **APPROVE** CU 2003-0002 – Center Street Residential
29 Planned Unit Development Conditional Use, based upon the
30 testimony, reports and exhibits, and new evidence presented during
31 the Public Hearings on the matter, and upon the background facts,
32 findings and conclusions found in the Staff Report dated May 14, 2003,
33 as amended, including the amendments made by the City Attorney,
34 and including Conditions of Approval Nos. 1 through 10.

35

36 Motion **CARRIED** by the following vote:

37

38 **AYES:** Maks, Winter, Bliss, Pogue, Voytilla, and Barnard.

39

NAYS: None.

40

ABSTAIN: None.

41

ABSENT: Johansen

42

43 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
44 a motion to **APPROVE** LD 2003-0002 – Center Street Residential
45 Planned Unit Development Subdivision, based upon the testimony,

1 reports and exhibits, and new evidence presented during the Public
2 Hearings on the matter, and upon the background facts, findings and
3 conclusions found in the Staff Report dated May 14, 2003, as amended,
4 including the amendments made by the City Attorney, and including
5 Conditions of Approval Nos. 1 through 3.

6
7 Motion **CARRIED** by the following vote:

8
9 **AYES:** Maks, Winter, Bliss, Pogue, Voytilla, and Barnard.

10 **NAYS:** None.

11 **ABSTAIN:** None.

12 **ABSENT:** Johansen

13
14 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
15 a motion to **APPROVE** TP 2003-0005 – Center Street Residential
16 Planned Unit Development Tree Plan, based upon the testimony,
17 reports and exhibits, and new evidence presented during the Public
18 Hearings on the matter, and upon the background facts, findings and
19 conclusions found in the Staff Report dated May 14, 2003, as amended,
20 including the amendments made by the City Attorney, and including
21 Conditions of Approval Nos. 1 through 3.

22
23 Motion **CARRIED** by the following vote:

24
25 **AYES:** Maks, Winter, Bliss, Pogue, Voytilla, and Barnard.

26 **NAYS:** None.

27 **ABSTAIN:** None.

28 **ABSENT:** Johansen

29
30 Commissioner Maks **MOVED** and Commissioner Voytilla
31 **SECONDED** a motion to **APPROVE** SDM 2003-0001 – Center Street
32 Residential Planned Unit Development Tree Plan, based upon the
33 testimony, reports and exhibits, and new evidence presented during
34 the Public Hearings on the matter, and upon the background facts,
35 findings and conclusions found in the Staff Report dated May 14, 2003,
36 and including Conditions of Approval Nos. 1 through 3.

37
38 Motion **TIED**, by the following vote:

39
40 **AYES:** Maks, Voytilla, and Barnard.

41 **NAYS:** Bliss, Pogue, and Winter.

42 **ABSTAIN:** None.

43 **ABSENT:** Johansen.

44

1 Commissioner Winter requested clarification with regard to the cost of
2 the mitigation issue.

3
4 Commissioner Maks emphasized that it is very expensive to mitigate a
5 wetland.

6
7 Commissioner Maks **MOVED** and Commissioner Voytilla
8 **SECONDED** a motion to **APPROVE** SDM 2003-0001 – Center Street
9 Residential Planned Unit Development Tree Plan, based upon the
10 testimony, reports and exhibits, and new evidence presented during
11 the Public Hearings on the matter, and upon the background facts,
12 findings and conclusions found in the Staff Report dated May 14, 2003,
13 as amended, including the amendments made by the City Attorney,
14 and including Conditions of Approval Nos. 1 through 3.

15
16 Motion **CARRIED** by the following vote:

17
18 **AYES:** Maks, Voytilla, Bliss, and Barnard.

19 **NAYS:** Pogue and Winter.

20 **ABSTAIN:** None.

21 **ABSENT:** Johansen.

22
23 **APPROVAL OF MINUTES:**

24
25 Minutes of the meeting of May 7, 2003, submitted. Commissioner
26 Pogue **MOVED** and Commissioner Bliss **SECONDED** a motion that
27 the minutes be approved as written.

28
29 Motion **CARRIED**, unanimously, with the exception of Commissioner
30 Maks, who abstained from voting on this issue.

31
32 **MISCELLANEOUS BUSINESS:**

33
34 The meeting adjourned at 10:03 p.m.